

# Digital Markets Act – what you need to know

The **Digital Markets, Competition and Consumer Act**, passed earlier this year, introduces the most significant reforms to the UK's competition and consumer protection regimes for two decades. **Mark Jones** of law firm **Jones Day** explains the key implications for UK companies and how to prepare for the new landscape.

The reforms have two main aspects:

- (i) the new consumer protection regime, which is relevant for all consumer-facing businesses;
- (ii) the new regime for regulating large digital platforms, which will give new protections to the many businesses outside the tech sector that interact with these platforms as suppliers, customers and competitors.

## Consumer protection reforms

The consumer protection reforms codify a number of new rules on issues such as subscription contracts, drip pricing and fake reviews which will be relevant to some businesses. But the transformational change for a much broader set of businesses is that it empowers the UK Competition and Markets Authority (CMA) to enforce consumer rules directly, without the need to go to court, and to impose huge fines of up to 10% of global turnover.

Once these changes come into effect early next year, the risks for businesses which (even inadvertently) fail to comply with consumer rules will become much more tangible. So now is the time for all consumer-facing businesses to review their compliance frameworks to ensure they are fit for purpose. This should include appropriate escalation procedures for customers to raise consumer law concerns, reducing the risk that any allegations of breaches make their way to the CMA, rather than being resolved with the affected customers.

## New digital markets regime

The new regime follows last year's European Union's Digital Markets Act and pursues similar objectives. It enables the CMA to designate businesses with 'substantial and entrenched market power' and 'a strategic position' with respect to digital activity linked to the UK as having Strategic Market Status. Once so designated, these businesses will be subject to firm-specific conduct requirements and targeted 'pro-competitive

interventions' which the CMA can impose without needing to prove any unlawful conduct has occurred. They will also need to report any M&A activity above certain thresholds.

Designation of a business by the CMA may give customers, suppliers and other stakeholders interacting with that business a range of additional protections as a result of the new conduct requirements. They will also have an easier route to complain to the CMA about potential violations of the new regime or other forms of anti-competitive conduct.

The CMA has not yet confirmed which businesses or specific digital activities will be designated and which specific conduct requirements will apply (except that they will be based on principles of fair trading, open choice and trust and transparency). But the focus of these new rules will certainly be on the largest tech companies. Businesses which interact with them should take the opportunity to influence the way the new regime will operate by participating in the CMA's consultation processes on how the new system will work – which tech companies will be designated for regulation, what conduct requirements will be imposed on them and what, if any, pro-competitive interventions are proposed. Participation should help businesses to ensure their interests are fully considered.



### Contact us

[Lnferera@jonesday.com](mailto:Lnferera@jonesday.com)

The views and opinions set forth herein are the personal views or opinions of the author; they do not necessarily reflect views or opinions of the law firm with which he is associated.